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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 DAVID SMITH,

12 Plaintiff,

13 vs.

14 FAMILY DOLLAR, INC., a North
15 Carolina Corporation; DOES I through X;
16 and ROE BUSINESS ENTITIES I through
X, inclusive,

17 Defendant.
18

Case No.: 2:15-cv-00945-JCM-PAL

**NOTICE PURSUANT TO LOCAL RULE 16-
6(b) AND/OR 16-5 AND REQUEST TO
SCHEDULE EARLY NEUTRAL
EVALUATION SESSION OR, IN THE
ALTERNATIVE, SETTLEMENT
CONFERENCE**

19 Plaintiff DAVID SMITH (“Plaintiff”) and Defendant FAMILY DOLLAR, INC.
20 (“Defendant”), by and through their respective counsel, hereby provide notice pursuant to Local Rule
21 16-6(b) that the parties to the above-captioned matter have not been referred to the early neutral
22 evaluation (“ENE”) and request this matter be referred to the ENE program pursuant to either LR
23 16-5 or 16-6. [Dkt. #1].

24 Pursuant to Local Rule 16-6, all employment discrimination actions filed in this Court are
25 referred to a neutral Magistrate Judge for the scheduling of an ENE session in order to provide the
26 parties with a candid evaluation of the merits of their claims and defenses. In this action, Plaintiff
27 asserts claims for interference and retaliation/discrimination under the Family Medical Leave Act,
28 29 U.S.C § 2601, *et seq.* (“FMLA”). [Dkt. #1]. Plaintiff also asserts a tort claim for retaliatory

1 discharge in violation of public policy. Local Rule 16-6(b) does not expressly identify FMLA
 2 violation claims or retaliatory discharge tort claims as comprising an “employment discrimination
 3 action” subject to the ENE program. However, the parties believe the claims asserted are akin to
 4 those causes of action that are subject to the ENE programs and that it would benefit the parties to
 5 participate in the ENE program.

6 As provided in Local Rule 16-6(b), in the event an action is not initially assigned to the ENE
 7 program, “an action must be assigned to the Program upon the filing by any party of a notice”
 8 identifying the grounds for inclusion into the program. Alternatively, Local Rule 16-5 provides that
 9 the Court may set a settlement conference at any time in a civil case at its discretion. As such, the
 10 parties request this matter be referred for an ENE session.

11
 12 Dated: July 20, 2015.

Dated: July 20, 2015.

13 Respectfully submitted,

Respectfully submitted,

14
 15 /s/ James P. Kemp, Esq.
 16 JAMES P. KEMP, ESQ.
 KEMP & KEMP

/s/ Crystal J. Herrera, Esq.
 WENDY MEDURA KRINCEK, ESQ.
 CRYSTAL J. HERRERA, ESQ.
 LITTLER MENDELSON, P.C.

17 Attorneys for Plaintiff,
 18 DAVID SMITH

Attorneys for Defendant,
 FAMILY DOLLAR, INC.

19
 20 **IT IS ORDERED** that this matter qualifies for and should be referred to the ENE
 21 Referral Program.

22 DATED this 20th day of July, 2015.

23 

24 Peggy A. Leen
 25 United States Magistrate Judge
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